

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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JAMIE MCKNIGHT	:	
	:	
	:	
Plaintiff	:	
vs.	:	
	:	
AMAZON.COM, INC. ET. AL	:	2:23-cv-01449
	:	
Defendants	:	

**PLAINTIFF, JAMIE MCKNIGHT’S SUR REPLY TO AMAZON’S  
OPPOSITION TO MOTION FOR REMAND**

The Musitief Firm LLC now puts forth this Sur Reply in further support of Plaintiff’s Motion to Remand this matter to the Philadelphia Court of Common Pleas:

This Honorable Court should grant Plaintiff’s Motion to Remand as it is clear that Defendant Tyrese Skinner is a Citizen of the Forum State and Plaintiff is currently in the process of completing personal service on him.

The case of Swindell-Fillaggi vs. CSX Corp., 922 F. Supp. 2d 514 (ED. PA 2013), 2013 U.S. Dist. Lexis 17194 is directly on point and is the binding precedent applicable in the instant matter. The “forum defendant rule” provides that an action **cannot** be **removed** on the basis of diversity jurisdiction “ if any of the parties in interest properly joined and served as defendants is a Citizen of the State in such an action is brought. 28 USC Sec.1441(b)(2). In Swindell-Fillaggi, the corporate defendant, CSX removed the case to federal court arguing that removal was proper since another Corporate Defendant, Conrail who resided in the forum state hadn’t been properly served until the actual day the notice of removal was filed. The Honorable Michael Baylson found that the statute wasn’t to be read literally and ordered Remand to State Court. Swindell-Fillaggi vs. CSX Corp., 922 F. Supp. 2d 514 (ED. PA 2013). The Swindell-Fillaggi Court followed the

rationale established in Allen vs. GlaxoSmithKline PLC, No. 07-5045,-2008 U.S. Dist. Lexis 42491, 2008 WL 2247067 at 4 (E.D. Pa. May 30 2008). In Allen, the court held that in-state defendants cannot rely on the “joined and served” requirement to justify removal. The Court based this conclusion on the “logic and policy” of the forum defendant rule in general, and the “joined and served” requirement in particular. Since “the intent behind the “joined and served” requirement is to avoid gamesmanship,” the Court concluded “it would be especially absurd to interpret the same “joined and served” requirement to actually condone a similar kind of gamesmanship from defendants-removing before service, in order to later claim federal jurisdiction, for lack of proper service.” Allen, 2008 U.S. dist. LEXIS 42491, 2008 WL 2247067, at \*4.

In the instant matter, Plaintiff’s Complaint was filed on April 10, 2023 and shortly thereafter on April 19, 2023, service was attempted on Defendant, Tyrese Skinner at 4531 North 17<sup>th</sup> Street, Philadelphia, Pa 19140, by Process Server, Daniel Guida. Defendant was not able to be served at that time. Attempted Service dated April 19, 2023, is attached hereto as Exhibit “A”. Thru various skip traces/online searches, Plaintiff’s Counsel was able to obtain a new address for Defendant, Tyrese Skinner at 4531 North 13<sup>th</sup> Street, Philadelphia, Pa 19140. Process servers are currently enroute to serve Defendant Skinner. See a copy of the email attached hereto and marked as Exhibit “B”. To allow Amazon to remove on a slight technicality that Defendant Skinner wasn’t served before Amazon was served would clearly circumvent the clear intent of 28 USC Sec.1441(b)(2) and violate the forum defendant rule. Thus, Amazon’s removal in the instant matter is invalid, and this Honorable Court should remand promptly to Philadelphia Court of Common Pleas.

RESPECTFULLY SUBMITTED,  
THE MUSITIEF FIRM, LLC

Dated:

BY: 

FEEDA R. MUSITIEF, ESQUIRE  
THE MUSITIEF FIRM, LLC  
1333 Race Street  
Philadelphia, Pa 19103  
215-703-5400  
Email – [fm@musitief.com](mailto:fm@musitief.com)

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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JAMIE MCKNIGHT	:	
	:	
	:	
Plaintiff	:	
vs.	:	
	:	
AMAZON.COM, INC. ET. AL	:	2:23-cv-01449
	:	
Defendants	:	

**CERTIFICATE OF SERVICE**

I do hereby certify that service of a true and correct copy of *Plaintiff's Sur-reply to Amazon's Opposition to Motion for Remand*, was electronically filed enabling counsel of record to retrieve a copy. It is further certified that the following unrepresented Defendants were forwarded a copy at the following addresses via regular mail, although it is unknown and unconfirmed if received:

Ryan O'Neil, Esquire  
Erin W. Grewe, Esquire  
Andrew Notaristefano, Esquire  
CAMPBELL, CONROY & O'NEIL, P.C.  
1205 Westlakes Drive, Suite 330  
Berwyn, Pa 19312

Tyrese Skinner  
4531 North 13<sup>th</sup> Street  
Philadelphia, Pa 19140

Marissa Pembroke, Esquire  
Patrick McDonnell, Esquire  
MCDONNELL& ASSOCIATES, P.C.  
Metropolitan Business Center  
860 First Avenue, Unit 5B  
King of Prussia, Pa 19406

Francis J. Grey, Jr. Esquire  
RICCI TYRRELL JOHNSON & GREY  
1515 Market Street  
Suite 1800  
Philadelphia, Pa 19102

RESPECTFULLY SUBMITTED,

THE MUSITIEF FIRM, LLC

BY: 

FEIDA R. MUSITIEF, ESQUIRE  
THE MUSITIEF FIRM, LLC  
1333 Race Street  
Philadelphia, Pa 19103  
215-703-5400  
Email – [fm@musitief.com](mailto:fm@musitief.com)

Dated: 5-12-23

## EXHIBIT “A”

**THE MUSITIEF FIRM, LLC**  
**BY: FEEDA R. MUSITIEF, ESQUIRE**  
Attorney I.D.: 202768  
1333 RACE STREET  
PHILADELPHIA, PA 19107  
215-703-5400  
Email: [FM@musitief.com](mailto:FM@musitief.com)

ATTORNEYS FOR PLAINTIFF

MAJOR JURY

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JAMIE MCKNIGHT	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
	:	
Plaintiff	:	
vs.	:	APRIL TERM, 2023
	:	
AMAZON.COM, INC. ET. AL	:	NO.: 898
	:	
Defendants	:	

**AFFIDAVIT OF NON SERVICE**

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF PHILADELPHIA :

I, Feeda R. Musitief, Esquire, being duly sworn according to law, deposes and says that on April 19, 2023, attempted service was made of a true and correct copy of the Complaint in the above captioned matter upon Defendant, Tyrese Skinner, 4531 North 17<sup>th</sup> Street, Philadelphia, Pa 19140 by Process Server, Daniel Guida. Service was not made as "Unknown" evidenced by copy of the Affidavit attached as Exhibit "A".

**THE MUSITIEF FIRM, LLC**

**BY:**

**FEEDA R. MUSITIEF, ESQUIRE**

**AFFIDAVIT OF NON-SERVICE**

Commonwealth of Pennsylvania

County of Philadelphia

Common Pleas Court

Case Number: APRIL 2023 0898

Plaintiff:  
JAMIE MCKNIGHT

vs.

Defendant:  
AMAZON, ET AL

For:  
MUSITIEF FIRM, LLC  
1333 RACE STREET  
PHILADELPHIA, PA 19107

Received by COURT HOUSE LEGAL SERVICES, INC. to be served on TYRESE SKINNER, 4531 NORTH 17TH STREET, PHILADELPHIA, PA 19140.

I, Daniel Guida, being duly sworn, depose and say that on the 19th day of April, 2023 at 2:55 pm, I:

**NON-SERVED - DILIGENT:** after due search, careful inquiry and diligent attempts was unable to serve the COMPLAINT on TYRESE SKINNER for the reasons detailed in the comments below.

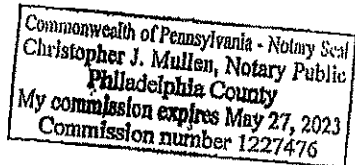
**Additional Information pertaining to this Service:**


UNKNOWN. RUTH BROWN SAID HE HAS LIVED THERE WITH HER MOTHER FOR 40 YEARS. SKINNER IS NOT KNOWN

I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the <sup>24<sup>th</sup></sup> ~~29<sup>th</sup>~~ day of April, 2023 by the affiant who is personally known to me.

  
NOTARY PUBLIC



  
Daniel Guida  
Process Server

COURT HOUSE LEGAL SERVICES, INC.  
112 Haddontowne Ct, Ste. 304  
Cherry Hill, NJ 08034  
(856) 428-4700

Our Job Serial Number: CHL-2023003984  
Ref: MCKNIGHT/AMAZON, ET AL



## EXHIBIT “B”



Donna Floody &lt;df@musitief.com&gt;

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**JAMIE MCKNIGHT V. AMAZON.COM**

3 messages

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**Donna Floody** <df@musitief.com>

Tue, May 9, 2023 at 3:03 PM

To: courthouselegal@aol.com, Feeda Musitief &lt;fm@musitief.com&gt;

Good Afternoon:

Please serve Defendant, Tyrese Skinner at 4531 N. 13th Street, Philadelphia, Pa 19140 with the Reinstated Complaint.

Thank you.

--

**Donna M. Floody, Secretary****Feeda R. Musitief, Esquire**

1333 Race Street

Philadelphia, Pa. 19107

Office (215) 703-5400

Fax (215) 703-5402

[Email-df@musitief.com](mailto:df@musitief.com)**TIMED STAMPED PREACIPE TO REINSTATE COMPLAINT.pdf**

952K

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**courthouselegal@aol.com** <courthouselegal@aol.com>

Tue, May 9, 2023 at 3:05 PM

Reply-To: courthouselegal@aol.com

To: "df@musitief.com" &lt;df@musitief.com&gt;, "fm@musitief.com" &lt;fm@musitief.com&gt;

Thanks,  
Received,

Matt

Court House Legal Services

[112 Haddontowne Court, Ste 304](#)[Cherry Hill, NJ 08034](#)

856-428-4700

800-242-9779

[Quoted text hidden]

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**Donna Floody** <df@musitief.com>

Tue, May 9, 2023 at 3:13 PM

To: courthouselegal@aol.com

Cc: "fm@musitief.com" &lt;fm@musitief.com&gt;

Thank you.

[Quoted text hidden]



20230425141614



Spartan Detective Agency, Inc.  
P.O. Box 1414 - Union, New Jersey 07083  
Phone: (877) SDA-2009 (877-732-2009)  
Fax: (888) 224-4405 Tax ID 22-1927841  
www.SpartanPI.com

## ***Confidential Report*** **20230425141614**

THE MUSITIEF FIRM, LLC  
1333 RACE STREET  
PHILADELPHIA PA 19107

Regarding: SKIP TRACE  
On: TYRESE SKINNER  
Date: 04/28/2023

Attn: FEEDA R. MUSITIEF, ESQ.  
Phone: 2157035400  
Fax: 2157035402  
E-mail: FM@MUSITIEF.COM

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As per your request, a SKIP TRACE

On TYRESE SKINNER  
4531 NORTH 17TH STREET  
PHILADELPHIA PA 19140

was diligently conducted.

Docket/File#: PHILADELPHIA COUNTY; APRIL TERM, 20  
Venue: PHILADELPHIA  
Claim#:   
Plaintiff: JAMIE MCKNIGHT  
Defendant: AMAZON.COM. INC. ET AL

We have located this data with the information previously provided by you. Our findings are indicated below:

**WE WERE UNABLE TO LOCATE A CURRENT ADDRESS.  
THERE ARE NUMEROUS INDIVIDUALS WITH THIS NAME.**

**THE ENTITY IS UNKNOWN AT THE GIVEN ADDRESS.**

**WE NEED MORE INFORMATION (SSN, DOB, PRIOR ADDRESS....) TO FURTHER INVESTIGATE.  
IF THERE IS NO OTHER INFORMATION AVAILABLE, THEN WE RECOMMEND A POSTAL FORWARDING SEARCH. (PLEASE  
BE ADVISED POSTAL FORWARDING SEARCHES MAY TAKE UP TO 120 BUSINESS DAYS). PLEASE ADVISE.**

THE DATA CONTAINED IN THIS REPORT HAS BEEN OBTAINED BY APPLYING THE SUBJECT'S NAME AND/OR SOCIAL SECURITY NUMBER FOR VERIFICATION.  
ALL SUBJECT INFORMATION HAS BEEN PROVIDED BY THE CLIENT PREVIOUS TO THIS SEARCH. IF THIS IS A BANK SEARCH PLEASE NOTE THAT THIS  
SUBJECT MAY HAVE OTHER BANK ACCOUNTS WITH OTHER BANKS, WHICH DID NOT COME UP ON THIS SEARCH. ALL OF THE ABOVE DATA IS FURNISHED  
IN RESPONSE TO AN INQUIRY AND HAS BEEN OBTAINED FROM SOURCES DEEMED RELIABLE, THE ACCURACY OF WHICH THIS ORGANIZATION DOES NOT  
GUARANTEE. THE INQUIRER IS TO BE PERSONALLY RESPONSIBLE FOR ANY MISUSE OF THE ABOVE INFORMATION.  
**SHOULD YOU HAVE ANY QUESTIONS PLEASE DO NOT HESITATE TO CONTACT US!**